

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND
2017 MAR 23 PM 2:22

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA
AT BALTIMORE

BY _____ V. DEPUTY
ANTONIO McNEELY

CRIMINAL NO. CCB-11-0114

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MEMORANDUM

I have reviewed the letter motion for reconsideration filed on behalf of Antonio McNeely on December 2, 2016 (ECF No. 1221), as well as the government's response (ECF No. 1229) and the entire record, including information related to co-defendants Donald Wright and Dana Bowman. I am persuaded that my prior ruling denying Mr. McNeely's motion for a sentence reduction under 18 U.S.C. § 3582(c)(2) was erroneous. While the agreed "c-plea" sentencing range was higher than the advisory guideline range, it is now clear to me that the negotiated (and apparently re-negotiated) advisory guideline range set the floor to which an agreed-upon upward adjustment was applied.¹

In addition, the court is persuaded that injustice would result if Mr. McNeely's sentence is not reduced, because the sentences of two more culpable co-defendants with c-plea agreements based on the guidelines were reduced. The reduction for Mr. McNeely, however, will be limited to a sentence of 109 months, a similar mid-range term as the original 136-month sentence.

Accordingly, the motion to reconsider is **Granted**. The Order denying the reduction (ECF No. 1220) is **Rescinded**. A separate Order stating the reduction in sentence follows.

March 22, 2017
Date


Catherine C. Blake
United States District Judge

¹ Regarding criminal history category, the court agrees with the defense that it is common, at least in cases before me, to receive plea agreements that do not explicitly state the criminal history category, even where counsel clearly have taken an expected category into account in arriving at an agreed range.